

# WEST VIRGINIA LEGISLATURE

## 2018 REGULAR SESSION

Introduced

### House Bill 4138

FISCAL  
NOTE

BY DELEGATES BYRD, FLUHARTY, LANE, MILLER,  
PHILLIPS, FLEISCHAUER, MOORE, LOVEJOY, BLAIR,  
CANESTRARO AND ROBINSON

[Introduced January 16, 2018; Referred  
to the Committee on the Judiciary.]

1 A BILL to amend §29-3-16a of the Code of West Virginia, 1931, as amended, relating to requiring  
2 each public or private school and daycare center that uses a heating system or other  
3 device that emits carbon monoxide to install carbon monoxide detectors

*Be it enacted by the Legislature of West Virginia:*

### **ARTICLE 3. FIRE PREVENTION AND CONTROL ACT.**

#### **§29-3-16a. Smoke detectors in one- and two-family dwellings; carbon monoxide detectors in residential units, schools and daycare facilities; penalty.**

1 (a) An operational smoke detector shall be installed in the immediate vicinity of each  
2 sleeping area within all one and two family dwellings, including any "manufactured home" as that  
3 term is defined in §21-9-2(j) of this code. The smoke detector shall be capable of sensing visible  
4 or invisible particles of combustion and shall meet the specifications and be installed as provided  
5 in the current edition of the National Fire Protection Association Standard 72, "Standard for the  
6 Installation, Maintenance and Use of Household Fire Warning Equipment" and in the  
7 manufacturer's specifications. When activated, the smoke detector shall provide an alarm suitable  
8 to warn the occupants of the danger of fire.

9 (b) The owner of each dwelling described in subsection (a) of this section shall provide,  
10 install and replace the operational smoke detectors required by this section. So as to assure that  
11 the smoke detector continues to be operational, in each dwelling described in subsection (a) of  
12 this section which is not occupied by the owner thereof, the tenant in any dwelling shall perform  
13 routine maintenance on the smoke detectors within the dwelling.

14 (c) Where a dwelling is not occupied by the owner and is occupied by an individual who is  
15 deaf or hearing impaired, the owner shall, upon written request by or on behalf of the individual,  
16 provide and install a smoke detector with a light signal sufficient to warn the deaf or hearing-  
17 impaired individual of the danger of fire.

18 (d) An automatic fire sprinkler system installed in accordance with the current edition of  
19 the National Fire Protection Association Standard 13D, "Standard for the Installation of Sprinkler

20 Systems in Residential Occupancies" may be provided in lieu of smoke detectors.

21 (e) After investigating a fire in any dwelling described in subsection (a) of this section, the  
22 local investigating authority shall issue to the owner a smoke detector installation order in the  
23 absence of the required smoke detectors.

24 (f) An operational single station carbon monoxide detector with a suitable alarm or a  
25 combination smoke detector and carbon monoxide detector, which shall be alternating current  
26 (AC) powered, either plugged directly in to an electrical outlet that is not controlled by a switch or  
27 hardwired into an alternating current (AC) electrical source, with battery ~~back-up~~ backup, and be  
28 installed, maintained, tested, repaired or replaced, if necessary, in accordance with the  
29 manufacturer's direction:

30 (1) In any newly constructed residential unit which has a fuel-burning heating or cooking  
31 source including, but not limited to, an oil or gas furnace or stove;

32 (2) In any residential unit which is connected to a newly constructed building, including,  
33 but not limited to, a garage, storage shed or barn, which has a fuel-burning heating or cooking  
34 source, including, but not limited to, an oil or gas furnace or stove;

35 (3) Effective September 1, 2012, in either a common area where the general public has  
36 access or all rooms in which a person will be sleeping that are adjoining to and being directly  
37 below and above all areas or rooms that contain permanently installed fuel-burning appliances  
38 and equipment that emit carbon monoxide as a byproduct of combustion located within all  
39 apartment buildings, boarding houses, dormitories, long-term care facilities, adult or child care  
40 facilities, assisted living facilities, one- and two-family dwellings intended to be rented or leased,  
41 hotels and motels.

42 (g) Effective January 1, 2013, all single station carbon monoxide detectors with a suitable  
43 alarm or a combination smoke detector and carbon monoxide detectors shall be hardwired into  
44 an alternating current (AC) electrical source, with battery backup, when installed in all newly  
45 constructed apartment buildings, boarding houses, dormitories, hospitals, long-term care

46 facilities, adult or child care facilities, assisted living facilities, one- and two-family dwellings  
47 intended to be rented or leased, hotels and motels.

48 (h) In any long-term care facility that is staffed on a twenty-four hour, seven day a week  
49 basis, the single station carbon monoxide detector with a suitable alarm or a combination smoke  
50 detector and carbon monoxide detector shall only be required to be installed in an area of the  
51 facility that permits the detector to be audible to the staff on duty.

52 (i) Effective January 1, 2019, carbon monoxide detectors shall be hardwired into an  
53 alternating current (AC) electrical source, with battery backup, in every public or private school or  
54 daycare facility that uses a heating system or other mechanical or heating devise that emits  
55 carbon monoxide. A carbon monoxide detector shall be located in any location where fumes from  
56 the system or device can be inhaled.

57 ~~(j)~~ (i) Any person installing a carbon monoxide detector in a residential unit shall inform  
58 the owner, lessor or the occupant or occupants of the residential unit of the dangers of carbon  
59 monoxide poisoning and instructions on the operation of the carbon monoxide detector installed.

60 ~~(j)~~ (k) When repair or maintenance work is undertaken on a fuel-burning heating or cooking  
61 source or a venting system in an existing residential unit, the person making the repair or  
62 performing the maintenance shall inform the owner, lessor or the occupant or occupants of the  
63 unit being served by the fuel-burning heating or cooking source or venting system of the dangers  
64 of carbon monoxide poisoning and recommend the installation of a carbon monoxide detector.

65 ~~(k)~~ (l) Any person who violates any provision of this section is guilty of a misdemeanor  
66 and, upon conviction thereof, for a first offense, shall be fined \$250. For a second offense, the  
67 person is guilty of a misdemeanor and, upon conviction thereof, shall be fined \$750. For a third  
68 and subsequent offenses, the person is guilty of a misdemeanor and, upon conviction thereof,  
69 shall be fined \$2000.

70 ~~(l)~~ (m) A violation of this section may not be considered ~~by virtue of the violation~~ to  
71 constitute evidence of negligence or contributory negligence or comparative negligence in any

72 civil action or proceeding for damages.

73 ~~(m)~~ (n) A violation of this section may not constitute a defense in any civil action or  
74 proceeding involving any insurance policy.

75 ~~(n)~~ (o) Nothing in this section shall be construed to limit the rights of any political  
76 subdivision in this state to enact laws imposing upon owners of any dwelling or other building  
77 described in subsection (a) or (f) of this section a greater duty with regard to the installation, repair  
78 and replacement of the smoke detectors or carbon monoxide detectors than is required by this  
79 section.

NOTE: The purpose of this bill is to require all schools and daycares that use a heating system or other device that emits carbon monoxide to install a carbon monoxide detectors.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.